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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2024

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

C.R.P.(MD)No.2034 of 2024
and
C.M.P.(MD)Nos.11581 and 11582 of 2024

Ramachandran ... Petitioner

Vs.

Thayup Haaji Ismail ... Respondent

PRAYER : Civil Revision Petition is filed under Section 115 of C.P.C., against the order, dated 29.04.2024, in I.A.No.2 of 2023 in R.C.A.No.15 of 2023, on the file of the Rent Control Appellate Court, Madurai.

For Petitioner : Mr.S.Ramesh
For Respondent : Mr.G.Aravinthan
for M/s.Aran Legal Consultancy

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ORDER

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The present civil revision petition is filed by tenant against the order, dated 29.04.2024, passed in I.A.No.2 of 2023 in R.C.A.No.15 of 2023, on the file of the Rent Control Appellate Court, Madurai.

2. The revision petitioner is the tenant and the respondent is the landlord. The respondent landlord had filed R.C.O.P., to evict the revision petitioner / tenant under the ground of demolition and reconstruction and the same was allowed. Aggrieved over the tenant had filed R.C.A.No.15 of 2023 and also filed I.A.No.2 of 2023 to appoint a fresh Advocate Commissioner and the same was dismissed. Aggrieved over, the revision petitioner had filed the present revision petition.

3. The contention of the landlord is that there were more than 10 tenants in the building and all tenants are evicted under the ground of demolition and reconstruction, except the revision petitioner herein.

4. The contention of the revision petitioner is that the building stability ought to be ascertained, hence a fresh advocate commissioner ought to be

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appointed. The Trial Court had considered the plea and held that in RCOP itself I.A.No.70 of 2017 was filed to ascertain the stability, thereafter it was recommended to demolish the building. But the revision petitioner has filed the present I.A. only on the ground that the Engineer who had not ascertained the stability by drilling the wall. The said contention was rejected by the Appellate Court. The Learned Counsel appearing for the tenant submitted that the ground for eviction is demolition and reconstruction, hence stability ought to be ascertained, but the Engineer failed to ascertain the stability by drilling the wall. This Court is of the considered opinion when the expert person had already ascertained and opined regarding the stability, it is unnecessary to appoint an advocate commissioner to again ascertain the stability. Further it is not necessary to ascertain only by drilling the wall. Therefore, this Court is of the considered opinion that the said contention of the tenant cannot be accepted and the same is rightly rejected by the Appellate Court.

5. The further contention of the revision petitioner is that he has put up a commercial textile shop in 110 square feet only and the same ought to be

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considered while re-letting the shops after reconstruction, hence prayed to allot a portion to him. However, as on date, the respondent is not inclined to give any assurance. But for the above contention, the revision petitioner has not raised any legally sustainable grounds to interfere with the order. Hence, the civil revision petition is liable to the dismissed. However, the revision petitioner is at liberty to approach the respondent after reconstruction and the landlord is at liberty to consider the proposal.

6. Therefore, this revision petition is dismissed. The R.C.A., may be completed at the earliest.

7. With the above said observations, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

25.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes

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To

1. Rent Control Appellate Court,
   Madurai.

2.The Section Officer,
   Vernacular Records Section,
   Madurai Bench of Madras High Court,
   Madurai.

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S.SRIMATHY, J.

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